



Insight

General Overview of Intellectual Property Protection in Indonesia

Azuri Rahman Nasution, S.H.



ADP Counsellors at Law

Plaza Simatupang 6th Floor Kav. IS No. 01, Jl. T.B. Simatupang, RT.2/RW.17, Pd. Pinang, Kec. Kby. Lama, Kota Jakarta Selatan, Daerah Khusus Ibukota Jakarta 12310 | info@adplaws.com

Introduction

In an increasingly knowledge and digital-based economy, Intellectual Property (“IP”) has become a vital asset that drives innovation, fosters creativity, and strengthens economic growth. In Indonesia, the scope of IP is governed by a set of specific laws, each regulating a distinct category of rights. The main types of IP recognized under Indonesian law include:

- **Copyright**

Copyright is an exclusive right of a creator that arises automatically based on the declarative principle once a work is realized in tangible form, without prejudice to any limitations stipulated by the prevailing laws and regulations. It is regulated under Law No. 28 of 2014 on Copyright. The protection term is the life of the author plus 70 years after the author's death, 50 years for performer(s) from first publication, 50 years for producers of phonograms from fixation, and 20 years for broadcasting organizations from the first broadcast.

- **Patent**

A patent is an exclusive right granted by the state to an inventor for their invention in the field of technology, allowing them to independently implement the invention or grant permission to others to implement it. Patents are regulated under Law No. 13 of 2016 on Patent with the latest amendment under Law No. 65 of 2024. Protection terms are 20 years from the acceptance date for patents and 10 years for simple patents, and they are non-renewable.

- **Trademark**

A trademark is a sign that can be represented graphically, including images, logos, names, words, letters, numbers, color arrangements (2D or 3D), sounds, holograms, or a combination thereof, used to distinguish goods or services. Trademarks are regulated under Law No. 20 of 2016 on Trademark and Geographical Indication, with its latest amendment in Law No. 6 of 2023. The term of protection is 10 years from the acceptance date and can be renewed.

- **Geographical Indication**

Geographical Indication is a sign indicating the origin of a good or product which, due to its geographical environment, including natural factors, human factors, or a combination of both — confers a specific reputation, quality, and characteristic on the product. This is regulated under the Trademark and Geographical Indication Law. Protection remains valid as long as the reputation, quality, and characteristics that constitute the basis for the protection are preserved.

- **Industrial Design**

Industrial Design is a creation in the form of a shape, configuration, or composition of lines or colors, or a combination thereof, in three-dimensional or two-dimensional form, which gives an aesthetic impression and can be realized in a pattern for producing products, industrial commodities, or handicrafts. It is regulated under Law No. 31 of 2000 on Industrial Design. Protection lasts 10 years from the acceptance date and is non-renewable.

- **Trade Secret**

A Trade Secret is information that is not publicly known in the field of technology and/or business, has economic value because of its usefulness in business activities, and is kept confidential by its owner. It is regulated under Law No. 30 of 2000 on Trade Secret. There is no fixed term of protection, as it subsists as long as the confidentiality is maintained.

- **Layout Design of Integrated Circuits**

Layout Design is a creation in the form of a three-dimensional layout plan of various elements, at least one of which is an active element, as well as some or all interconnections in an integrated circuit, intended for manufacturing. Integrated Circuit is a finished or semi-finished product containing various elements, at least one of which is active, interconnected and integrated in a semiconductor material to produce an electronic function. It is regulated under Law No. 32 of 2000 on Layout Design of Integrated Circuits. Protection is valid for 10 years from first commercial exploitation or from the filing date.

- **Plant Variety Protection**

Plant Variety Protection is a special right granted by the state over plant varieties developed through breeding activities. It is regulated under Law No. 29 of 2000 on Plant Variety Protection with the latest amendment under Law No. 6 of 2023. The term of protection is 20 years for seasonal plants and 25 years for annual plants.

Despite the comprehensive legal framework governing various categories of IP in Indonesia, the practical implementation of these rights remains a complex challenge. The following section will delve into the practical implementation of IP in Indonesia, examining the implementation and the violation of IP in Indonesia.

Implementation of IP in Indonesia

The protection of IP right in Indonesia aims to provide a legal foundation that governs the relationships between creators, designers, rights holders, and users of such rights for a specified period. It is an important element in valuing intellectual works in science, the arts, and literature. Thus, individuals and organizations must be aware of the importance of IP in fostering creativity and innovation. There are 2 (two) fundamental principles underlie the legal protection of IP in Indonesia, comprising:

1. First to File Principle

This principle provides that any party who registers their IP, provided that the registration requirements are satisfied, is entitled to protection. Accordingly, registration is a prerequisite for obtaining such protection. Indonesia adopts this principle, particularly in relation to trademark protection.

2. First to Use Principle

In contrast to the First to File principle, this principle provides that protection of IP is based on the date of the work is first disclosed or made available to the public (declarative). Therefore, registration is not a mandatory requirement for legal protection. Indonesia also adopts this principle, particularly regarding to copyright protection.

The Indonesian Government, through the Directorate General of Intellectual Property of the Ministry of Law (“**DGIP**”), provides the following services to business actors, creators, innovators, and Right Holders:

- Facilitating the registration of IP to obtain legal protection; and
- Enforcing registered IP in cases of infringement.

In addition to the DGIP, the Indonesian Government, through the Indonesian National Police (“**Polri**”) and the Directorate General of Customs and Excise of the Ministry of Finance (“**Customs**”) are also authorized to enforce registered intellectual property.

Violation of IP in Indonesia

Amidst technological advancements and economic development, the protection of IP right in Indonesia faces a number of significant challenges. The key issues include low public awareness of IP right, suboptimal law enforcement, and the lack of adequate human resources and supporting infrastructure. The rapid development of technology has also given rise to new and complex challenges in the protection of IP.

In Indonesia, the protection of IP right is confronted with several notable obstacles. One of the primary concerns is the low level of public awareness on IP. Many individuals still lack a proper understanding of the rights they hold over their intellectual creations, such as copyrights, patents, trademarks, and geographical indications. This lack of awareness often leads to unintentional misuse or infringement of such rights by third parties.

Apart from public awareness, the enforcement of IP laws in Indonesia is also far from optimal. There are several shortcomings associated with IP right protection in the country, including:

- **Low public awareness and understanding of the importance of IP right.** Many individuals do not fully comprehend the rights they possess over the intellectual works they create or own.
- **Inefficient and slow handling of infringement cases,** where legal responses are often delayed or inadequate, particularly in complex IP right disputes.
- **High costs and lengthy procedures** involved in obtaining IP right protection, which can be a significant barrier for individuals and small enterprises seeking to secure their rights effectively.

These challenges indicate the need for a more robust framework and comprehensive strategies to enhance IP right protection in Indonesia, including education, institutional reform, and improved enforcement mechanisms.

Furthermore, there are several cases of IP violations in Indonesia that can be explained as follows.

1. Pierre Cardin

Pierre Cardin is a well-known trademark originating from France. The trademark dispute arose when Pierre Cardin filed a lawsuit alleging that Alexander Satryo Wibowo had used the renowned "Pierre Cardin" trademark. The lawsuit sought the cancellation of the trademark registration. However, the case ultimately resulted in a ruling by the Indonesian Supreme Court in favor of Alexander Satryo Wibowo. This decision was based on the fact that Wibowo had held the exclusive rights to the "Pierre Cardin" trademark in Indonesia since 1987, whereas the internationally recognized Pierre Cardin trademark was only registered in Indonesia in 2009.

In its claim, Pierre Cardin asserted that there was a substantial similarity in the arrangement and character of the letters or syllables, phonetic pronunciation, and the logos or graphical elements between the marks. However, the court dismissed the claim on the grounds that Alexander Satryo Wibowo had been the first to register the trademark in Indonesia. Since Indonesia adheres to the constitutive registration system, the first registrant is granted legal protection. Consequently, Alexander Satryo Wibowo retained the lawful rights to the "Pierre Cardin" trademark in Indonesia, along with all associated legal entitlements.

2. Hugo Boss

Hugo Boss is a German company established in 1924. The dispute involving the Hugo Boss trademark began when the company filed a lawsuit to cancel the registration of a trademark owned by Teddy Tan. The Indonesian Supreme Court ultimately ruled in favor of Hugo Boss at the cassation level.

The lawsuit was based on the allegation that there was a substantial similarity between the trademarks, which was perceived as an attempt of bad faith by the defendant to benefit from the global reputation of the Hugo Boss brand. The substantial similarities included the font type, shape, words and graphical elements, writing style or combination thereof, pronunciation, and the identical use of the words “HUGO” and “BOSS” in the same sequence.

Furthermore, Hugo Boss successfully demonstrated these similarities in court, leading to a favorable ruling. Another decisive factor in the outcome was the fact that Hugo Boss had already registered its trademark and was recognized as a well-known mark. Accordingly, the court granted Hugo Boss's claim and ruled against Teddy Tan.

Conclusion

Protection of IP right serves as a crucial foundation for fostering innovation, maintaining competitiveness, and supporting the growth of a knowledge-based economy. Indonesia has established a fairly comprehensive legal framework to protect various types of IP, ranging from copyright to plant variety protection. However, in practice, several challenges remain, such as low public awareness, the complexity of legal procedures, and weak enforcement that hinder the optimal implementation of IP protection.

Cases such as Pierre Cardin and Hugo Boss reflect the importance of understanding the trademark registration system and the prevailing protection principles under Indonesian law. Accordingly, business actors, creators, and innovators are expected to adopt a more proactive approach in understanding and safeguarding their IP right.

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ADP Counsellors at Law

Office

Plaza Simatupang 6th Floor Kav. IS No. 01, Jl. T.B. Simatupang, RT.2/RW.17, Pd. Pinang, Kec. Kby. Lama, Kota Jakarta Selatan, Daerah Khusus Ibukota Jakarta 12310

Email

info@adplaws.com

Tel.

+6221 2270 2291



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